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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

20 E. I. DU PONT DE NEMOURS AND) Case No. 3:11-cv-01665-JSW
21 COMPANY,)
22 Plaintiff,) **JOINT STATUS REPORT AND**
23 v.) **[PROPOSED] ORDER EXTENDING**
24 USA PERFORMANCE TECHNOLOGY,) **STAY OF ACTION**
25 INC., PERFORMANCE GROUP (USA),)
26 INC., WALTER LIEW, and JOHN LIU,)
27 Defendants.)
28)
19 _____

Judge: Hon. Jeffrey S. White
Hearing Date: None

20 Pursuant to the Court's May 21, 2013 Order, Plaintiff E. I. du Pont de Nemours and
21 Company ("DuPont") and defendants Walter Liew and USA Performance Technology, Inc.
22 (collectively "USAPT") submit this Joint Status Report. The parties request that the stay in this
23 matter set to expire on July 19, 2013, remain in place for an additional 60 days, through
24 September 17, 2013.

25 On April 6, 2011, DuPont filed the instant suit. (Docket # 1.) Defendants filed their
26 Substituted Answer and Counterclaim on July 11, 2011. (Docket # 35.) The action was first
27 stayed on July 22, 2011. (Docket # 39.)

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1 On August 23, 2011, the United States filed *United States v. Walter Liew and Christina*
 2 *Liew*, No. CR-11-0573-RS. On February 7, 2012, the United States filed a superseding
 3 indictment in said action. (*Id.* at Docket # 64.) On March 12, 2013, the United States filed a
 4 Second Superseding Indictment. (*Id.* at Docket # 269.)

5 DuPont's Position: The second superseding indictment alleges that defendant Walter
 6 Liew, his wife, Christina Liew, and several other individual defendants violated multiple federal
 7 trade secret and economic espionage laws when they stole – and utilized – the trade secrets at
 8 issue in this action. *Inter alia*, Mr. Liew is charged with Conspiracy to Commit Economic
 9 Espionage, Conspiracy to Commit Theft of Trade Secrets, Possession of Trade Secrets,
 10 Conveying Trade Secrets, Witness Tampering, and False Statements. (*See id.* ¶¶ 16-97.) In
 11 addition, the second superseding indictment identifies five DuPont trade secrets relating to its
 12 TiO2 technology at issue in the criminal action. (*Id.* ¶ 14.) The second superseding indictment
 13 also names various of the Pangang Companies and charges them with 1) Conspiracy to Commit
 14 Economic Espionage, 2) Conspiracy to Commit Theft of Trade Secrets, and 3) Attempted
 15 Economic Espionage. (*Id.* ¶¶ 9-10, 17, 22-31, 39-40, 45, 52-54, 57-58.)

16 USAFT's Position: Defendants believe that the second superseding indictment speaks for
 17 itself, and no further explanation or commentary is appropriate or needed.

18 History Relating to the Stay in this Action:

19 On September 7, 2011, this Court issued an Order relating the criminal proceeding with
 20 this action, pursuant to its determination that this action and the criminal proceeding are related
 21 within the meaning of Crim. L.R. 8-1(b). (Docket # 42.)¹

22 On September 23, 2011, the parties filed a joint status report requesting that the stay
 23 initially entered on July 22, 2011 (Docket # 39), be extended for an additional 60 days. (Docket
 24 # 44.) On September 29, 2011, the Court granted the parties' request. (Docket # 45.)

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27 ¹ On September 16, 2011, DuPont dismissed without prejudice defendant John Liu pursuant to
 28 Federal Rule of Civil Procedure 41(a)(1). (Docket # 43.) Thus, the only remaining defendants in
 this action are Walter Liew and his companies, USA Performance Technology Inc. and
 Performance Group, Inc.

1 On November 23, 2011, the parties filed an additional joint status report requesting that
2 the stay be extended for an additional 60 days. (Docket # 46.) The Court granted the parties'
3 request on November 29, 2011. (Docket # 48.)

4 On January 24, 2012, the parties filed an additional joint status report requesting that the
5 stay be extended for an additional 60 days. (Docket # 49.) The Court granted the parties' request
6 on January 31, 2012. (Docket # 50.)

7 On March 26, 2012, the parties filed an additional joint status report requesting that the
8 stay be extended for an additional 60 days. (Docket # 51.) The Court granted the parties' request
9 on March 27, 2012. (Docket # 52.)

10 On May 23, 2012, the parties filed an additional joint status report requesting that the stay
11 be extended for an additional 60 days. (Docket # 53). The Court granted the parties' request on
12 May 23, 2012. (Docket # 54).

13 On July 23, 2012, the parties filed an additional joint status report requesting that the stay
14 be extended for an additional 60 days. (Docket # 55). The Court granted the parties' request on
15 July 24, 2012. (Docket # 56).

16 On September 21, 2012, the parties filed an additional joint status report requesting that
17 the stay be extended for an additional 60 days. (Docket # 57). The Court granted the parties'
18 request later that day. (Docket # 58).

19 On November 20, 2012, the parties filed an additional joint status report requesting that
20 the stay be extended for an additional 60 days. (Docket # 59). The Court granted the parties'
21 request later that day. (Docket # 60).

22 On January 18, 2013, the parties filed an additional joint status report requesting that the
23 stay be extended for an additional 60 days. (Docket # 61). The Court granted the parties' request
24 later that day. (Docket # 62).

25 On March 26, 2013, the parties filed an additional joint status report requesting that the
26 stay be extended for an additional 60 days. (Docket # 63). The Court granted the parties' request
27 later that day. (Docket # 64).

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[PROPOSED] ORDER

Having read and considered the Joint Status Report,

IT IS ORDERED THAT:

4 The parties' request that the stay be extended until September 17, 2013 is hereby
5 GRANTED. Counsel shall submit a joint status report on or before September 10, 2013.

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8 July ___, 2013

Honorable Jeffrey S. White
UNITED STATES DISTRICT JUDGE

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